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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/771,491	JOAO, RAYMOND ANTHONY
	Examiner	Art Unit	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 July 2007 and 09 August 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>101-120</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>101-120</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   The amendment filed on July 2, 2007, cancelled claims 81-100 and new

claims 101-120 were added. The supplemental amendment filed on August 9, 2007

cancelled no claims, added no claims and amended claim 101. Previous

amendments cancelled claims 1-60. Thus, the currently pending claims in the

applications are Claims 101-120.

Claim Rejections - 35 USC § 112

2.   The amendment filed on August 9, 2007 corrected the second paragraph of

35 U.S.C. 112 deficiencies identified in the Office Action dated April 6, 2007 by

cancelling claims 81-100. Thus, the examiner withdraws the 35 U.S.C. 112, second

paragraph rejection of claims 81-100, and the 35 U.S.C. 112, second paragraph

rejection of claims 83-86.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 101-115, and 118-120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capek (U.S. Patent Number: 6,026,369) in view of McCandless ("Web advertising" Intelligent Systems and Their Applications, IEEE, Volume: 13, Issue: 3, May/Jun 1998, page(s): 8-9).

Claim 100, 118, and 119:   Capek discloses a computer-implemented method, comprising:

a. Receiving a first request by a content provider to be notified regarding an occurrence of an event, wherein the event is at least one of a request by a merchant for advertising space, a change in an offered price for an advertising space, and a change in a term or condition for an advertising offering. (Col 3, lines 1-7) (Capek discloses content providers transmitting summary information to the control distribution node which is a request, by the content provider, for notification of merchant wishing to place targeted advertisements that satisfy the criteria set forth in the summary information.)

b. Receiving at least one of a request by a merchant for advertising space, a change in an offered price for an advertising space, and a change in a term or condition for an advertising offering. (Col 3, lines 9-12) (Capek discloses an advertiser (merchant) requesting advertising space)

c. Detecting the occurrence of the event, wherein the occurrence of the event is automatically detected with a processing device, wherein the processing device is capable of servicing a plurality of merchants or is capable of detecting the occurrence of events associated with a plurality of merchants. (Col 3, lines 9-17) (Capek discloses that the arrival of the request by a merchant is detected and process 12 is initiated. Process 12 is used to match the advertisement requests with content providers)

d. Generating a message containing information regarding the event, wherein the first message is automatically generated by the processing device in response to the occurrence of the event. (Col 3, lines 25-29) (Capek discloses that a placement query is generated and sent to the access providers that satisfy the criteria set forth in the placement request)

e. Transmitting the message to a computer or a communication device associated with the content provider. (Col 3, lines 25-29) (Capek discloses that a placement query is generated and sent to the access providers that satisfy the criteria set forth in the placement request)

f. Receiving a second request, wherein the second request is transmitted from the computer or the communication device associated with the content provider, wherein the second request is a request for information regarding an offer by a merchant associated with the event. (Col 3, lines 31-44) (Capek discloses the content providers sending a request indicating the number of placements that they are able to satisfy; this is request for information regarding an offer since the

content provider is not guaranteed that it will be allocated the number of

placements it is requesting.)

g. Generating a second message, wherein the second message contains at least

one of information regarding the offer by the merchant to create or establish an

affiliate marketing relationship or an advertising relationship, information

regarding the merchant, and contact information regarding the merchant, wherein

the second message is generated by the processing device. (Col 3, lines 49-51)

(Capek discloses generating and sending information regarding the offer by the

merchant to the content providers. The information is the number of placements

that the content provider has been chosen to provide.)

h. Transmitting the second message to the computer or the communication device

associated with the content provider. (Col 3, lines 49-51) (Capek discloses

generating and sending information regarding the offer by the merchant to the

content providers. The information is the number of placements that the content

provider has been chosen to provide.)

i. Receiving information indicating that the content provider has accepted the offer

by the merchant to create or establish an affiliated marketing relationship or an

advertising relationship. (Col 3, line 66 through Col 4, line 4) (Capek discloses

that the content provider sends information regarding the number of placements

that they have delivered to their clients. The fact that the content provider

delivered the placements to their clients inherently indicates that information sent

by the content provider that they have accepted the offer.)

j. Processing the information indicating that the content provider has accepted the

offer by the merchant to create or establish an affiliated marketing relationship or

an advertising relationship between the merchant and the content provider,

wherein the processing device processes the information indicating that the

content provider has accepted the offer by the merchant. (Col 4, lines 4-7)

(Capek discloses that the information sent by the content provider, which

indicates acceptance of the offer, is processed into a summarization by the CDN)

k. Storing information regarding the affiliated marketing relationship or the

advertising relationship between the merchant and the content provider in a

database or a memory device. (Col 4, lines 4-7) (Capek discloses that the

information sent by the content provider, which indicates acceptance of the offer,

is processed into a summarization (stored) by the CDN)

While Capek is silent regarding how the Content Distribution Network (CDN)

utilizes the summarized count information that indicates the number of placements

served by each content provider, the analogous art of McCandless discloses that

various metrics are used to measure web advertising. One such common method is

based upon unique impressions which occur when an ad is served to one browser

within a fixed time window. The pricing of such ads are typically priced by the

number of impressions (Page 2, Col 1, lines 15-29). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made for the

CDN to contact the advertiser and report the placement information in order to

receive payment for said placements. The rational for doing so is that there are a

limited number of predictable ways in which the CDN could be reimbursed for

providing to the requested number of placement. One such predictable method of

billing for the placement would be to contact the advertiser and provide them with a

bill containing a summary of advertisement placements that were provided.

Claim 102:   Capek and McCandless disclose the computer-implemented

method of Claim 101, wherein the computer implemented method is performed on or

over at least one of the Internet and the World Wide Web. (Capek: Col 1, lines 5-20)

Claim 103:   Capek and McCandless disclose the computer implemented

method of Claim 101, wherein the first message is transmitted to the computer or the

communication device in real-time. (Capek: Col 3, lines 15-39)

Claim 104:   Capek and McCandless disclose the computer-implemented

method of Claim 101, further comprising: transmitting information regarding an

advertisement associated with the merchant to a computer associated with the

content provider via at least one of the Internet and the World Wide Web. (Capek:

Col 1, lines 5-20)

Claim 105:   Capek and McCandless disclose the computer implemented

method of Claim 104. While Capek does not specifically disclose that the

information regarding an advertisement associated with the merchant includes a

banner advertisement the analogous art of McCandless discloses that the most common type of web advertisements is the banner ad (Page 1, Col 3, line 38 through Page 2, Col 1, line 14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use banner advertisements in the invention disclosed by Capek. The rational for including banner advertisements is that they are the most common type of web advertisements.

Claim 106:   Capek and McCandless disclose the computer implemented method of Claim 104, while Capek and McCandless do not specifically state that the advertisement contains printed matter that include a logo or an icon, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a corporate icon or logo on the advertisement. The rational for including such a logo or icon is that the majority of advertisements include such predictable printed matter. Such printed matter is typically included in order to provide customers with a method of identifying the company that produces the product or service that is advertised.

Claim 107:   Capek and McCandless disclose the computer implemented method of Claim 104, wherein the information regarding an advertisement associated with the merchant includes a link to a computer or a web site associated with the merchant. (Capek: Col 4, lines 15-39)

Claim 108:   Capek and McCandless disclose the computer implemented

method of Claim 104, further comprising: placing information regarding the

advertisement associated with the merchant on a computer or a web site associated

with the content provider. (Capek: Col 3, line 66 through Col 4, line 1; and Col 4,

lines 15-39)

Claims 109, 110, 112, and 113: Capek and McCandless disclose the computer

implemented method of claim 101. While Capek does not specifically recite the

determining of a commission or a referral fee due to the content provider pursuant to

the affiliated marketing relationship or the advertising relationship, the analogous are

of McCandless discloses that charging advertisers based upon based upon the

number of unique impressions served (Page 2, Col 1, lines 15-29). Therefore, it

would have been obvious to one of ordinary skill at the time the invention was made

to utilize the placement summary disclosed by Capek to charge the advertiser based

upon the impressions identified in the summary and to keep the financial records of

such transactions. The rational for doing so is that it is common to use a cost per

impression based pricing methodology when charging an advertiser for

advertisement placement.

Claim 111:   Capek and McCandless disclose the computer implemented

method of Claim 101, further comprising: processing information regarding a web

site or a link visited, utilized, or navigated, by an individual or a user in connecting to

a computer or a web site associated with the merchant. (Capek: Col 4, lines 15-39)

Claim 114:   Capek and McCandless disclose the computer implemented

method of claim 101, further comprising: at least one of storing and providing

information regarding a past success rate of an advertisement and a success rate of

the content provider. (Col 3, line 66 through Col 4, line 8)

Claim 115:   Capek and McCandless disclose the computer implemented

method of claim 101. While Capek and McCandless are silent regarding the method

used for contacting the merchant to provide information regarding the number of

placements server, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to contact the merchant via a common

communication means such as the telephone, postal mail, or electronic mail. The

rational for doing so is that there are a limited number of predictable ways in which

the information could be conveyed to the merchant and e-mail is one such

predictable method.

Claim 120:   Capek and McCandless disclose the computer implemented

method of claim 101, wherein the processing device services a plurality of merchant

and services a plurality of content providers. (Capek: Col 2, line 66 through Col 3,

line 39)

5.   Claims 116 and 117 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Capek (U.S. Patent Number: 6,026,369) in view of McCandless

("Web advertising" Intelligent Systems and Their Applications, IEEE, Volume: 13,

Issue: 3, May/Jun 1998, page(s): 8-9) in further view of Goldhaber (U.S. Patent

Number: 5,794,210).

Claims 116 and 117:   Capek and McCandless disclose the computer implemented

method of claim 101. While Capek and McCandless are silent regarding the

administering of a financial account for the merchant or for the content provider, the

analogous art of Goldhaber discloses an advertisement server that places

advertisements and administers financial accounts for the merchant (Col 20, lines 8-

35). Therefore, it would have been obvious for the Content Distribution Network of

Capek to administer a financial account for the merchant or the content provider.

The rational for doing so is to bring advertising buyers and sellers together more

quickly, less expensively, from larger populations, and with greater accuracy than

other existing sales mechanisms (Goldhaber: Col 20, lines 36-40).

Response to Arguments

6.   Applicant's amendment dated July 2, 2007, and supplemental amendment

dated August 9, 2007 have cancelled all previously prosecuted claims. The

arguments are directed solely towards the newly submitted claims 101-120. As such the arguments have been addressed in the rejection above.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

phone number for the organization where this application or proceeding is assigned

is 571-273-8300.

Information regarding the status of an application may be obtained from the

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assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-

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jvb

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